

Order

Michigan Supreme Court
Lansing, Michigan

February 1, 2005

ADM File No. 2004-40

Proposed Amendment of Rule 3.215
of the Michigan Court Rules
(Domestic Relations Referees)

Clifford W. Taylor
Chief Justice

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman
Justices

On order of the Court, this is to advise that the Court is considering further amendments of Rule 3.215 of the Michigan Court Rules in addition to the amendments that are effective May 1, 2005. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter will be considered at a public hearing by the Court before a final decision is made. The notices and agendas for public hearings are posted on the Court's website at www.courts.michigan.gov/supremecourt.

The text of this proposal reflects proposed changes to the text of the May 1, 2005, version of Rule 3.215.

Publication of these proposals does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposals in their present form.

[Additions are indicated by underlining and deletions are indicated by strikeover.]

Rule 3.215 Domestic Relations Referees

(A)-(C) [Unchanged.]

(D) Conduct of Referee Hearings.

(1)-(3) [Unchanged.]

(4) An electronic or stenographic record must be kept of all hearings.

(a) The parties must be allowed to make contemporaneous copies of the record if the referee's recording equipment can make multiple copies simultaneously and if the parties supply the recording media.

(b) If ordered by the court, or if stipulated by the parties, the referee must provide a transcript, verified by oath, of each hearing held. The cost of preparing a transcript must be apportioned equally between the parties, unless otherwise ordered by the court.

- (c) At least 7 days before the judicial hearing, a party who intends to offer evidence from the record of the referee hearing must provide notice to the court and each other party. If a stenographic transcript is necessary, except as provided in (4)(b), the party offering the evidence must pay for the transcript.
- (d) If the court relies on the record of the referee hearing to limit the judicial hearing under subrule (F), the court must make a copy of the record available to the parties at no charge and must allow the parties to file supplemental objections within 7 days of the date the record is provided to the parties. Following the judicial hearing, the court may assess the costs of preparing a copy of the record to one or more of the parties.

(E) Posthearing Procedures.

(1)-(2) [Unchanged.]

(3) The recommended order may be prepared using any of the following methods:

- (a) The referee may draft a recommended order;
- (b) The referee may approve a proposed recommended order prepared by a party and submitted to the referee at the conclusion of the referee hearing;
- (c) Within 7 days of the date of the referee's findings, a party may draft a proposed recommended order and have it approved by all the parties and the referee; or
- (d) Within 7 days after the conclusion of the referee hearing, a party may serve a copy of a proposed recommended order on all other parties with a notice to them that it will be submitted to the referee for approval if no written objections to its accuracy or completeness are filed with the court clerk within 7 days after service of the notice. The party must file with the court clerk the original of the proposed recommended order and proof of its service on the other parties.
 - (i) If no written objections are filed within 7 days, the clerk shall submit the proposed recommended order to the referee for approval. If the referee does not approve the proposed recommended order, the referee may notify the parties to appear on a specified date for settlement of the matter.
 - (ii) To object to the accuracy or completeness of a proposed recommended order, the party must within 7 days after service of the proposed order, file written objections with the court clerk that

state with specificity the inaccuracy or omission in the proposed recommended order, and serve the objections on all parties as required by MCR 2.107, together with a notice of hearing and an alternate proposed recommended order. Upon conclusion of the hearing, the referee shall sign the appropriate recommended order.

(3)-(7) [Renumbered (4)-(8), but otherwise unchanged.]

(F)-(G) [Unchanged.]

Staff Comment: These amendments would establish how the record of a referee hearing will be provided to parties and would establish a procedure for a referee to submit a recommended order.

The staff comment is not an authoritative construction by the Court.

A copy of this order will be given to the secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on these proposals may be sent to the Supreme Court Clerk in writing or electronically by June 1, 2005, at P.O. Box 30052, Lansing, MI 48909, or MSC_clerk@courts.mi.gov. When filing a comment, please refer to ADM File No. 2004-40. Your comments and the comments of others will be posted at www.courts.mi.gov/supremecourt/Resources/Administrative/index.htm.



I, CORBIN R. DAVIS, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

February 1, 2005 ³ Corbin R. Davis Murphy
Deputy Clerk